

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

Civil Action No. 1:22-cv-102

JOE VALENTINE and IRENE)	
VALENTINE,)	
)	
Plaintiffs,)	
)	DEFENDANT'S MOTION TO
v.)	DISMISS
)	
TOWN OF CHAPEL HILL,)	
)	
Defendant.)	

Defendant, TOWN OF CHAPEL HILL (*hereinafter*, the “Town” or “Defendant”), by and through undersigned counsel and pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, respectfully moves the Court for an order dismissing all claims alleged against the Town in Plaintiffs’ Amended Complaint, filed March 7, 2023, on the following grounds, which are presented in more detail in Defendant’s concurrently filed Brief in Support and attachments:

- Plaintiffs’ claims were filed in a prior action involving the same issues and same parties, which is currently pending in North Carolina state court and should abate the subject action.
- Plaintiffs’ Complaint fails to plead sufficient facts to establish a plausible claim that the Town’s enactment of the STR Ordinance

should be declared illegal under any of the common law, statutory, or constitutional theories that Plaintiffs have alleged.

WHEREFORE, Defendant respectfully requests that the claims in Plaintiffs' Complaint be dismissed with prejudice.

This the 21st day of March, 2023.

HARTZOG LAW GROUP LLP

/s/ DAN M. HARTZOG, JR.

DAN M. HARTZOG, JR.

N.C. State Bar No. 35330

E-mail: dhartzogjr@hartzoglawgroup.com

2626 Glenwood Avenue, Suite 305

Raleigh, NC 27608

Telephone: (919) 670-0338

Facsimile: (919) 714-4635

Attorney for Defendant Town of Chapel Hill

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that this day the foregoing was filed with the Court's CM/ECF system, which will effect service upon Plaintiffs through counsel of record:

Randy H. Herman
BA FOLK, PLLC
P.O. Box 90426
Raleigh, NC 27675
rherman@bafolk.com
Attorney for Plaintiff

This the 21st day of March, 2023.

HARTZOG LAW GROUP LLP

/s/ DAN M. HARTZOG, JR.
DAN M. HARTZOG, JR.
N.C. State Bar No. 35330
E-mail: dhartzogjr@hartzoglawgroup.com
2626 Glenwood Avenue, Suite 305
Raleigh, NC 27608
Telephone: (919) 670-0338
Facsimile: (919) 714-4635
Attorney for Defendant Town of Chapel Hill